

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

MICHAEL SHERMAN,

Plaintiff,

VISION LAB TELECOMMUNICATIONS, INC., ON DEMAND MARKETING LLC, RANDY THOMASON, HIGHLAND MARKETING LLC, BELL SOUTH CORPORATION, TELEDATA SOLUTIONS, INC., and THE SUPPORT GROUP IN SWEDEN, AB,

Defendants.

05 CV 11545 NG

**MOTION FOR ENLARGEMENT OF TIME TO ANSWER OR OTHERWISE PLEAD**

Defendant, VISION LAB TELECOMMUNICATIONS, INC. (“Defendant” or “Vision Lab”), by its attorneys, Goulston & Storrs P.C., pursuant to Fed. R. Civ. P. 6(b) hereby moves this Court to enter an order enlarging Vision Lab’s time to answer or otherwise plead in response to Plaintiff Michael Sherman’s (“Plaintiff”) Amended Complaint to and including August 10, 2005. In support thereof, Vision Lab states as follows:

1. Plaintiff filed his original Complaint in this matter in the Trial Court of Massachusetts, Superior Court Department, Middlesex County on or about December 22, 2004, naming only Comcast Phone of Massachusetts, Inc. (“Comcast”) and unidentified telephone carriers as defendants.

2. On or about February 8, 2005, Plaintiff voluntarily dismissed Comcast, his only identified defendant, with prejudice.

3. On or about June 17, 2005, Plaintiff filed an Amended Complaint naming the present defendants.

4. On or about June 22, 2005, Vision Lab was served with the Summons and Complaint, which provided Vision Lab with 20 days to answer or otherwise plead.

5. On July 11, 2005, Samuel S. Cohen, of counsel to Vision Lab, telephoned Walter Oney, Plaintiff's counsel, to request an extension of time to answer and otherwise plead. In the course of that telephone conversation, Mr. Oney agreed to give Vision Lab an extensions of time to answer or otherwise plead to and including August 10, 2005, and to provide Vision Lab with copies of the faxes placed at issue in the Amended Complaint.

6. On July 12, 2005, Mr. Cohen sent Mr. Oney a letter by facsimile transmission and U.S. Mail confirming their agreement. A copy of this letter is attached hereto as Exhibit A.

7. On July 20, 2005, Vision Lab filed a Notice of Removal to this Court based on diversity jurisdiction.

8. Pursuant to Fed. R. Civ. P. 81(c) and 6(a), Vision Lab is thereby required to file a response to the Complaint on or before July 27, 2005.

9. Plaintiff's counsel did provide copies of the subject faxes pursuant to the agreement reached on July 11, 2005. These were received on July 12, 2005. Vision Lab has been investigating the source of the documents and the source of the telephone numbers to which they were allegedly sent. Unfortunately, this is a very time intensive task without which Vision Lab lacks sufficient information to answer the allegations in the Amended Complaint.

10. In addition, the persons most knowledgeable as to Vision Lab's potential involvement in the conduct alleged in the Amended Complaint are presently out of town and unable to work on answers to the allegations.

11. Accordingly, Vision Lab hereby moves this honorable Court to enter an order enlarging its time to answer or otherwise plead in response to the Amended Complaint to and

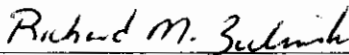
including August 10, 2005, consistent with the agreement among counsel for Plaintiff and Vision Lab memorialized in the letter attached hereto as Exhibit A.

WHEREFORE, Vision Lab respectfully requests this honorable Court to enter an order enlarging Vision Lab's time to answer or otherwise plead in response to the Amended Complaint to and including August 10, 2005.

Dated: July 22, 2005.

VISION LAB TELECOMMUNICATIONS, INC.,

By its attorneys,

  
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July 12, 2005

**VIA FAX (617-227-5760) AND U.S. MAIL**

Walter Oney, Esq.  
4 Longfellow Place  
Boston, Mass. 02114

**Re: *Michael Sherman v. Vision Lab Telecommunications, Inc., et al.***  
**No. MICV 2004-05030**

Dear Mr. Oney:

Please accept this letter as confirmation of our telephone conversation yesterday wherein you graciously agreed to extend the time within which Vision Lab Telecommunications, Inc. may answer or otherwise plead in response to the complaint which you filed in Superior Court in the above titled action, to and including August 10, 2005. Please also accept this letter as confirmation that I received the CD that you sent containing images of the faxes which the Complaint alleges were sent by Vision Lab.

If you have any questions or wish to discuss the above matter in further detail, please do not hesitate to call.

Sincerely,

  
Samuel S. Cohen